

By: Hardcastle

H.B. No. 2766

A BILL TO BE ENTITLED

AN ACT

relating to the permitting and collection of fees for Geophysical and Geochemical exploration on state property alongside Texas highways.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle Z, Title 6, Transportation Code, is amended by adding Chapter 473 to read as follows:

CHAPTER 473. GEOPHYSICAL AND GEOCHEMICAL EXPLORATION PERMIT ON
TEXAS HIGHWAY RIGHT OF WAYS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 001. SHORT TITLE. This chapter may be cited as the Texas Highway Right of Way Exploration Act.

Sec. 002. LEGISLATIVE INTENT AND CONSTRUCTION. (a) to protect the interests of state property along Texas Highways, as well as adjacent landowners, by establishing proper procedures and permitting requirements for the Geophysical and Geochemical exploration along the Right of Ways alongside Texas highways.

Sec. 003. DEFINITIONS. In this subchapter:

(1) "Adjacent Property" shall mean property which is located adjacent to the Right of Way as defined in this subchapter and is within a quarter mile of Geophysical or Geochemical exploration activity.

(2) "Geophysical exploration" means a survey or investigation conducted to discover or locate oil and gas prospects

1 using magnetic, gravity, seismic, and/or electrical techniques.

2 (3) "Geochemical exploration" means a survey or
3 investigation conducted to discover or locate oil and gas prospects
4 using techniques involving soil sampling and analysis.

5 (4) "Right of Way" means land dedicated by the
6 constitution or laws of this state which act as a Right of Way to the
7 State Highways under the "State highway system" meaning the
8 highways in this state included in the plan providing for a system
9 of state highways prepared by the director under Section 201.103.
10 For the purposes of this subchapter, "Right of Way" shall also
11 include the land within a county road under the authority of a
12 county commissioner's court as defined in Chapter 251 of the
13 Transportation Code.

14 (5) "Permit" means a license issued by the Commission
15 authorizing geophysical and/or geochemical exploration on Right of
16 Way.

17 (6) "Permittee" means the holder of a permit.

18 Sec. 004. Permit Required for Exploration. (a) Except for
19 a person who has a valid oil and gas lease on Right of Way land
20 authorized by this chapter, a person may not conduct geophysical or
21 geochemical exploration on Right of Way land unless the person
22 obtains a permit from the Commission.

23 (b) Every person who is authorized to conduct a geophysical
24 or geochemical exploration on Right of Way land shall comply with
25 the Commission's rules relating to such exploration. Any person
26 with a valid oil and gas lease on land subject to this chapter must
27 comply with the Commission's rules concerning exploration.

1 (c) Nothing in this title shall prohibit the conduct of
2 airborne geophysical exploration.

3 Sec. 005. APPLICATION FOR PERMIT. (a) The person
4 responsible for conducting a geophysical or geochemical
5 exploration is the person who must apply for a permit.

6 (b) An application for a permit shall be made on a form
7 prescribed by the Commission and shall state the name and address of
8 each person for whom the exploration is being conducted as well as
9 any other information required by the Commission.

10 Sec. 006. Authority of Commission

11 (c) The Commission:

12 (1) as a condition of issuing a permit, shall collect
13 reasonable fees from the applicant in an amount determined by the
14 Commission. Such reasonable fees will be split accordingly:

15 (A) 75 percent of the collected fee will go to the
16 State's General Revenue Fund

17 (B) 25 percent of the collected fee will go to the
18 adjacent landowner. Should there be more than one adjacent
19 landowner, the fee will be distributed proportionately according to
20 each owners' interest in the adjacent property.

21 (C) Only one fee will be collected per
22 geophysical or geochemical activity location.

23 (D) The Commission shall by rule determine how to
24 most equitably split such fees in the event of multiple adjacent
25 properties.

26 (2) may require a permittee to furnish to the
27 Commission, upon the Commission's request, copies of maps, plats,

1 reports, data, and any other information in the possession of the
2 permittee that relates to the progress or results of an exploration
3 under a permit; provided however, the Commission shall not require
4 a permittee to furnish any of its interpretive data;

5 (3) shall by rule require a permittee to restore land
6 explored under the permit as nearly as is practicable to its
7 condition immediately prior to the exploration;

8 (4) shall by rule determine the procedure for
9 receiving compensation for damages to the surface of Right of Way
10 land except land with a mineral classification under Subchapter F
11 of Title 2 of the Natural Resources Code; and

12 (5) may make any other rules relating to geophysical
13 or geochemical explorations, permits, or permittees the Commission
14 considers appropriate.

15 (d) The Commission shall by rule require a permittee to
16 obtain and demonstrate permission for a proposed geophysical or
17 geochemical exploration:

18 (1) from all landowners adjacent property to the Right
19 of Way; and

20 (2) from all landowners of drinking water wells or oil
21 & gas wells within 700 feet of proposed exploration site.

22 (e) If a permittee violates a rule of the Commission or a
23 term of a permit, the Commission may cancel the permit.

24 (f) If by authority of Subsection (a)(2) of this section the
25 Commission acquires information concerning a permittee's
26 geophysical or geochemical exploration, the Commission shall
27 consider the information to be confidential and may not disclose

1 it, except by authority of a court order, to the public or any other
2 agency of this state.

3 Sec. 007. PERMITTEE'S FAILURE TO COMPLY. (a) If a
4 permittee fails to restore land in accordance with Section
5 006(a)(3) of this code and the rules of the Commission, the
6 Commission and any surface lessee may maintain an action against
7 the permittee for actual damages to the land, or to the
8 improvements, growing crops, or domesticated animals on the land
9 that were caused by the geophysical or geochemical exploration.

10 (b) If a permittee violates this subchapter, the provisions
11 of a permit issued by authority of this subchapter, or a rule of the
12 Commission, the permittee commits an offense. An offense under
13 this subsection is a misdemeanor punishable by a fine of not less
14 than \$100 nor more than \$1,000. Each day that a violation occurs is
15 a separate offense.

16 Sec. 008. COUNTY ROADS. (a) For all such geophysical or
17 geochemical exploration activity which takes place in the Right of
18 Way of county roads as defined and outlined in Chapter 251 of this
19 Code but beyond the jurisdiction of the Commission, the county
20 commissioner's court shall have the same power and authority to
21 administer the requirements outlined in this subchapter and collect
22 the fees outlined in this subchapter as the Commission would for
23 such geophysical or geochemical exploration activity taking place
24 in a Right of Way within the state highway system.

25 (b) The 75 percent of the fee listed above in section
26 006(a)(1)(A) as going to the General Revenue fund will go to the
27 county when the geophysical or geochemical exploration activity

1 takes place in the Right of Way of county roads as defined and
2 outlined in Chapter 251 of this Code but beyond the jurisdiction of
3 the Commission.

4 (c) A county will notify the Commission when such a
5 geophysical or geochemical exploration activity has been permitted
6 to take place in the Right of Way of one of its county roads.

7 SECTION 2. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2003.